

**Service of Process
Transmittal**

12/02/2021

CT Log Number 540674860

TO: Ivan Smith
The Scotts Company
14111 Scottslawn Rd
Marysville, OH 43040-7801

RE: Process Served in Texas

FOR: The Scotts Company LLC (Domestic State: OH)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: WILLIS STEVEN COUCH // To: The Scotts Company LLC

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # 35233058521

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 12/02/2021 at 12:13

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT will retain the current log

Image SOP

Email Notification, Ivan Smith Ivan.Smith@scotts.com

Email Notification, Kristen Welker kristen.welker@scotts.com

Email Notification, SOP emailgroup SOP@scotts.com

Email Notification, Mark Sedor Mark.Sedor@Scotts.com

REGISTERED AGENT ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-331-2303
CentralTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Thu, Dec 2, 2021

Server Name: Ronald Cobb

Entity Served	THE SCOTTS COMPANY LLC
Case Number	35233058521
Jurisdiction	TX



THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No. 352-330585-21

WILLIS STEVEN COUCH
VS.
HOME DEPOT U.S.A., INC., ET AL

TO: THE SCOTTS COMPANY LLC

B/S REG ACT-CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS, TX 75201-3136

You said DEFENDANTS are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 352nd District Court ,100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

WILLIS STEVEN COUCH

Filed in said Court on November 30th, 2021 Against
HOME DEPOT USA INC, THE SCOTTS COMPANY LLC

2nd
DELIVERED THIS 2nd DAY OF December
AT 11:47 AM / PM
BY: *Revered*
PROJECT: 2021 CMPLX PROCS
INITIALS: *RL* LOC: 4574

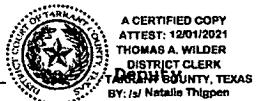
For suit, said suit being numbered 352-330585-21 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND a copy of which accompanies this citation.

MICHAEL H SMITH

Attorney for WILLIS STEVEN COUCH Phone No. (817)877-5750
Address 6040 CAMP BOWIE BLVD STE 14 FORT WORTH, TX 76116

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 1st day of December, 2021.

By Natalie Thigpen
NATALIE THIGPEN



A CERTIFIED COPY
ATTEST: 12/01/2021
THOMAS A. WILDER
DISTRICT CLERK
TARRANT COUNTY, TEXAS
BY: /s/ Natalie Thigpen

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

OFFICER'S RETURN *35233058521000004*

Received this Citation on the _____ day of _____, _____ at _____ o'clock _____ M; and executed at _____ within the county of _____, State of _____ at _____ o'clock _____ M
on the _____ day of _____, _____ by delivering to the within named (Def.): _____
defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND, having first endorsed on same the date of delivery: _____

Authorized Person/Constable/Sheriff: _____

County of _____ State of _____ By _____ Deputy _____

Fees \$ _____

State of _____ County of _____ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said _____ before me this _____ day of _____,

to certify which witness my hand and seal of office

(Seal)

County of _____, State of _____

CITATION

Cause No. 352-330585-21

WILLIS STEVEN COUCH

VS.

HOME DEPOT U.S.A., INC., ET AL

ISSUED

This 1st day of December, 2021

Thomas A. Wilder
Tarrant County District Clerk
100 N CALHOUN
FORT WORTH TX 76196-0402

By NATALIE THIGPEN Deputy

MICHAEL H SMITH
Attorney for: WILLIS STEVEN COUCH
Phone No. (817)877-5750
ADDRESS: 6040 CAMP BOWIE BLVD STE 14

FORT WORTH, TX 76116

CIVIL LAW



35233058521000004
SERVICE FEES NOT COLLECTED
BY TARRANT COUNTY DISTRICT CLERK
ORIGINAL

NO. 352-330585-21

FILED
TARRANT COUNTY
11/30/2021 2:15 PM
THOMAS A. WILDER
DISTRICT CLERK

WILLIS STEVEN COUCH
Plaintiff,

vs.

HOME DEPOT U.S.A., INC. and
THE SCOTTS COMPANY, LLC
Defendant.

IN THE DISTRICT COURT

OF TARRANT COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

Plaintiff, Willis Steven Couch, files this Original Petition and Jury Demand.

Discovery Control Plan

1. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.

Parties

2. Plaintiff, Willis Steven Couch, is an individual who resides in Tarrant County, Texas. In accordance with Tex. Civ. Prac. & Rem. Code § 30.014, which requires the disclosure of partial identification information for parties to a civil action; the last three numbers of Plaintiff's Texas Driver's License are 102, and the last 3 numbers of Plaintiff's Social Security Number are 730.

3. Defendant, Home Depot U.S.A., Inc., is a foreign corporation, organized and existing under the laws of the state of Delaware, whose home office is located at 2455 Paces Ferry Rd SE Atlanta,

GA-30339, is authorized to do business in Texas and may be served with process by serving its

registered agent for service of process at Corporation Service Company d/b/a CSC-Lawyers

Incorporating Services Company 211 E. 7th Street, Ste. 620, Austin, TX 78701-3218

4. Defendant, The Scotts Company, LLC is a foreign corporation, organized and existing under the laws of the state of Ohio, whose home office is located at 14111 Scottlawn Rd, Marysville, OH 43041-0001 is authorized to do business in Texas and may be served with process

by serving its registered agent for service of process at CT Corporation System, 1999 Bryan Street, Stc. 900 Dallas, TX 75201-3136.

Jurisdiction

5. The Court has jurisdiction over defendants, nonresidents, because they have purposely availed themselves of the privileges and benefits of conducting business in Texas. The Court has jurisdiction over the controversy because the damages are within the jurisdictional limits of the Court.

Venue

6. Venue is proper in Tarrant County because it is the county in which all or a substantial part of the events or omissions giving rise to the claims occurred. *See* TEX. CIV. PRAC. & REM. §15.002(a)(1).

Background

7. This lawsuit results from an injury plaintiff suffered while shopping in the garden center of The Home Depot located at 9509 White Settlement Road, White Settlement, Texas 76108. Plaintiff rounded an endcap display of Scott's Miracle Gro Products and was tripped by the damaged pallet which extended well beyond the product stacked upon it. Plaintiff fell forward, with his face, arm and knee striking the concrete floor.

8. Plaintiff suffered significant injuries as a result of this fall including a partial thickness

Negligence

10. Because Willis Steven Couch was an invitee at the time of his injury, Defendants owed him a duty to exercise ordinary care to keep the premises in reasonably safe condition, inspect the premises to discover latent defects, and to make safe any defects or give adequate warning of any dangers. Additionally, Defendants, as possessors of the premises, owed Plaintiff a duty to repair and/or maintain the property in a reasonably safe condition.

11. Defendants' conduct, and that of their agents, servants, and employees, acting within the scope of their employment, constituted a breach of the duty of ordinary care owed by Defendants to plaintiff. Defendants knew or should have known that the condition on their premises created an unreasonable risk of harm.

12. At all relevant times, Defendants committed one or more of the following acts or omissions, either directly or through their employees, agents, officers, supervisors, representatives and contractors each of which, alone or in combination, amounted to acts and/or omissions which a reasonably prudent owner and/or operator would not have done under the same or similar circumstances, proximately causing the occurrences, injuries and damages complained of herein:

- a. Failing to properly monitor, assess and/or safeguard the condition of the premises and, the safety of persons, such as Plaintiff, who were present on the premises;
- b. Failing to properly investigate, inspect and/or discover defects which existed on the premises;
- c. Failing to properly document the physical condition and defects which were contained on or which affected the premises;
- d. Failing to properly remedy, correct, repair, eradicate and/or remove defects which were known and/or which should have been known to exist, in the exercise of reasonable care;
- e. Failing to properly warn, notify or advise Plaintiff of the existing defects and the dangers associated with the premises; and

g. Failing to adequately train and supervise its employees.

13. Defendants failed to exercise ordinary care to reduce or eliminate the risk of injury to Willis Steven Couch by both failing to adequately warn him of the condition and failing to make the condition reasonably safe. Defendants' negligence proximately caused severe injury to Willis Steven Couch.

14. At all times material hereto, all of the agents, servants, and/or employees of Defendants who were connected with the occurrence made the subject of this suit were acting within the course and scope of their employment or official duties and in furtherance of the duties of their office or employment. Therefore, the named Defendants are vicariously liable for the negligent acts and omissions of their employees and agents under the doctrine of Respondeat Superior.

Damages

15. As a proximate cause of defendant's negligence, plaintiff suffered bodily injury. As a result of his injuries, plaintiff suffered the following damages:

- a. Physical pain and mental anguish in the past and future;
- b. Lost earnings;
- c. Damage to earnings capacity;
- d. Disfigurement in the past and future;
- e. Physical impairment in the past and future; and,
- f. Medical expenses in the past and future.

16. Plaintiff seeks monetary relief over \$250,000 but not more than \$1,000,000.

Jury Demand

17. Plaintiff demands a jury trial.

Request for Relief

18. For these reasons, plaintiff requests judgment against defendants for:

- a. Past and future actual damages;
- b. Costs of suit;
- c. All prejudgment and post-judgment interest permitted by law; and
- e. All other legal or equitable relief the court deems appropriate.

Respectfully submitted,

SMITH & SMITH

By: /s/ Michael H. Smith
Michael H. Smith
State Bar No. 00785005
Daniel J. Smith
State Bar No. 18557100
6040 Camp Bowie Blvd., Suite 14
Fort Worth, Texas 76116
(817) 877-5750
(817) 877-8899 (Fax)
E-mail: msmith@smithsmith-law.com
E-mail: dsmith@smithsmith-law.com

ATTORNEYS FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Sharon Janusz on behalf of Michael Smith
Bar No. 785005
scj@smithsmith-law.com
Envelope ID: 59560064
Status as of 11/30/2021 2:22 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel JSmith		dsmith@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT
Michael H.Smith		msmith@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT
Sharon Janusz		sej@smithsmith-law.com	11/30/2021 2:15:07 PM	SENT